



September 14, 2015

Texas Commission on Environmental Quality (TCEQ)
ATTN: Robert Brush, Staff Attorney
P.O. Box 13087, MC 173
Austin Texas 78711-3087
512-239-5600

Project No. 10103-007

Subject: **Industrial Wastewater Permit Application – WQ0005092000**
Expansion of Quarry within the John Graves Scenic Riverway – Response to Comments
TXI Operations, LP – CN600125157
TXI - Tin Top #2, Weatherford, Parker County, Texas

Dear Mr. Brush:

On behalf of TXI Operations, LP (TXI), Westward Environmental Inc. (WEI) is requesting that the commission deny the request for a Contested Case Hearing since the Response to Comments (RTC) issued on July 10th, 2015 implies that no person has demonstrated that they meet the criteria for status as an “affected person”.

As stated in the Decision of the Executive Director issued on July 14th 2015 to request a Contested Case Hearing:

“Your request must demonstrate that you are an “affected person” An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities.”

Additionally:

“Your request must raise disputed issues of fact that are relevant and material to the commission’s decision on this application.”

After reviewing the RTC, it is clear that none of the issues raised during the comment period show that any of the commenters are adversely affected in a manner not common to the general public and that is relevant and material to the commission’s decision on this application.

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The RTC clearly indicates that all issues raised fall into two basic categories. 1) Issues that are not relevant and material to this application and 2) issues for which the permit has been shown to include provisions which are protective to the general public.

1) Issues that are not relevant and material: (Comment 4, 5, 7, 8)

- These issues would not be considered in the contested case hearing process.

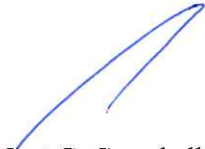
2) Issues for which the Permit is protective to the general public: (Comment 1, 2, 3, 6)

- Since the Permit is protective to the general public no individual is adversely affected by the proposed facility or activity in a manner not common to the general public.
- No specific information has been submitted to illustrate how the permit is not protective.

In summary the respondent's comments in support of their hearing requests are materially deficient and do not demonstrate nor claim a real or inferred impact. This is evident not only in their comments but also in the Commission's response to those comments. Even those landowners who are adjacent fail to provide any substantive evidence or even a persuasive argument that they will be affected in a manner not common to the general public.

Westward will serve as the technical representative for TXI on this project. **Please ensure that WEI is copied on all correspondence including but not limited to the final TCEQ determination.** If you have any questions regarding this request, please contact our office.

Respectfully Submitted,
WESTWARD


Curt G. Campbell, P.E.
Engineering Manager
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9/14/15